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9 Attorneys for Defendants CITY OF OXNARD,
10 OXNARD POLICE DEPARTMENT, JOHN CROMBACH,
11 and ANDREW SALINAS
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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16

17 MARIA LAZOS, et al.,) No. CV 08-02987 RGK (SHx)
18)
19 Plaintiffs,) [consolidated w/
20) No. CV 08-05153 RGK (SH)]
21 v.)
22 CITY OF OXNARD, et al.,) **DEFENDANTS' OPPOSITION TO**
23) **PLAINTIFFS' MOTION IN**
24 Defendants.) **LIMINE NO. 8; DECLARATION**
25) **OF DEFENSE COUNSEL**
26)
27) Date : August 11, 2009
28 AND CONSOLIDATED ACTION.) Time : 9:00 a.m.
29) Ctrm : 850 Roybal
30)
31)

32
33 Defendants hereby oppose plaintiffs' Motion in Limine No. 8
34 regarding prohibiting reference to the decedent as a "suspect" or
35 a "defendant" in a criminal context.
36

37 **I.**
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39 **PLAINTIFFS FAILED TO TIMELY MEET AND CONFER AS**
40 **REQUIRED BY LOCAL RULE 7-3**

41 Plaintiffs failed to timely meet and confer. Pursuant to
42 Local Rule 7-3, counsel contemplating the filing of any motion
43 shall first contact opposing counsel to discuss thoroughly the
44 substance of the contemplated motion at least twenty (20) days

1 prior to the filing of the motion. Pursuant to the Court's
2 standing orders, motions in limine are to be filed and served a
3 minimum of forty-five (45) days prior to the scheduled trial date
4 of August 11, 2009, which is June 27, 2009. Since June 27 is a
5 Saturday, the motion is to be filed by June 26. Based upon a
6 June 26 filing date, any meet and confer effort would have to be
7 completed by June 6, 2009 (twenty days prior). Plaintiffs did not
8 attempt to meet and confer by identifying the anticipated motions
9 in limine until June 11, 2009 (Exhibit A). The Court should note
10 that plaintiffs' motion fails to include the requisite language of
11 L.R. 7-3, advising the Court of the date of the meet and confer,
12 obviously because it was untimely. As such, because the motion is
13 untimely, it should not be considered by the Court.

14 **II.**

15 **CONTRARY TO PLAINTIFFS' CONTENTION, REFERENCE**

16 **TO DECEDENT AS A SUSPECT IS NOT IRRELEVANT**

17 **AND/OR PREJUDICIAL**

18 As to the issue of referring to decedent as a "suspect,"
19 plaintiffs' motion is baseless. The fact of the matter is that a
20 "suspect" is exactly what the decedent was and the reason for the
21 contact between he and Andrew Salinas on the night of the incident.
22 As Sgt. Salinas drove down 5th Street, he observed what he believed
23 to be suspicious circumstances and reported the situation to police
24 dispatch. When Sgt. Salinas confronted the decedent, the decedent
25 fled and was considered a suspected burglar. Reference to the
26 decedent as a suspect is not prejudicial, no more so than explain-
27 ing to the jury the scene of the suspected burglary, the circum-
28 stances of the contact, the foot pursuit, or the assault upon

1 Sgt. Salinas. All of these facts clearly imply that the decedent
2 was a criminal suspect. There is absolutely no undue prejudice to
3 plaintiffs by allowing reference to the decedent as a "suspect."

4 For the foregoing reasons, it is respectfully requested that
5 the Court deny plaintiffs' Motion in Limine No. 8.

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7 Dated: July ____, 2009

8 LAW OFFICES OF ALAN E. WISOTSKY

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10 By: _____
11 DIRK DeGENNA
12 Attorneys for Defendants,
13 CITY OF OXNARD, OXNARD POLICE
14 DEPARTMENT, JOHN CROMBACH, and
15 ANDREW SALINAS

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DECLARATION OF DIRK DEGENNA

2 I, Dirk DeGenna, declare as follows:

3 1. I am an attorney admitted to practice law before all the
4 courts of the State of California and the United States District
5 Court, Central District of California, and am an associate in the
6 Law Offices of Alan E. Wisotsky, attorneys of record for defendants
7 in this action. I make this declaration of my own personal
8 knowledge, except as to the information declared on information and
9 belief, and if called upon to testify, I could and would do so
10 competently.

11 2. Plaintiffs' counsel did not make an effort to meet and
12 confer regarding potential motions in limine until June 11, 2009,
13 when by way of correspondence dated that same day, plaintiffs'
14 counsel identified 23 anticipated motions in limine.

15 3. Attached hereto as Exhibit A is a true and correct copy
16 of the June 11, 2009, correspondence.

17 I declare under penalty of perjury under the laws of the
18 United States of America that the foregoing is true and correct.

19 Executed on July , 2009, at Oxnard, California.

DIRK DEGENNA